

**REMARKS**

In response to the restriction requirement mailed April 28, 2009, Applicants hereby elect Group I under 37 C.F.R. 1.143 for prosecution on the merits. New claims 20-33 have been added and are believed to fall within Group I such that group I now include claims 1-14 and 20-33. Claims 15-19 have been cancelled without prejudice and the Applicants reserve the right to pursue any of the non-elected claims in a continuing application.

The foregoing election has been submitted to place the present application in condition for allowance. Favorable consideration and allowance of the claims in this application is respectfully requested. In the event that there are any questions concerning this Amendment or the application in general, the Examiner is cordially invited to telephone the undersigned attorney so that prosecution may be expedited.

The Applicants hereby authorize the payment of the \$245 fee for a two month extension of time and the \$208 fee for the addition of 8 excess claims to be charged to Deposit Account No.: 50-2040 for Customer No.: 30,328. No other fees are believed due at this time, however, in the event that there are any fees to be charged or payments to be credited, the Applicant hereby requests that any charges or credits be made to Deposit Account No.: 50-2040 for Customer No.: 30,328.

Respectfully submitted,  
NUVATIVE, INC.

Date: July 28, 2009

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